THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.28965 of 1995

Dated: 22.11.2006

Between

Pragada Ramanna and seven others.

..... PETITIONER

And

The M.R.O., Kamavarapukota,
West Godavari District
and seven others.

.....RESPONDENTS

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ORDER:

The eight petitioners filed the present writ petition seeking a writ of mandamus declaring the action of respondents 1 and 2 namely the Mandal Revenue Officer (MRO), Kamavarapukota, and the Revenue Divisional Officer (RDO) Eluru in trying to dispossess the petitioners from their lands so as to hand over the same to the fifth respondent, as illegal and arbitrary. They also seek further declaration that petitioners 3 to 8 are entitled to grant of pattas and for a further direction to grant pattas to them.

The case of the petitioners in brief is as follows. The petitioners are allegedly in possession of the lands in survey No.320/2 (Acs.4.60 cents), survey No.319/3 (Acs.4.30 cents) and survey No.324/2 (Acs.5.00) situatued at Uppalapadu Village of Kamavarapukota Mandal, West Godavari District, since the time of their ancestors. They also claim that their ancestors were Sivai Zamadars. Therefore, they claim that they are entitled to grant of pattas in their favour. It is their case that ignoring their claims, the Tahsildar granted pattas in favour of Munukutla Bhaskaramba, her husband Vidyanatha Sastry and one

Dhavaleswarapu Gunneswara Rao. However, subsequently in 1986 the pattas granted to them were cancelled pursuant to orders of this Court in W.P.No.1472 of 1986, dated 25.02.1986. Before cancellation of assignment, the assignees mortgaged the lands to Kamavarapukota Large Sized Co-Operative Society (the Society, for brevity) for raising loans. They defaulted in payment of the loan. Therefore, the said Society brought the lands to sale by conducting auction. The Special Deputy Registrar of Co-Operative Central Bank, Eluru, conducted auction on 20.09.1983. The fifth respondent herein became the highest bidder and auction was confirmed in his name. They allege that so as to hand over the land to the fifth respondent, respondents 1 and 2 are trying to evict the petitioners without following the procedure under law.

The MRO, first respondent herein, filed a detailed counter-affidavit. The allegations made by the petitioners regarding the assignment to Munukutla Bhaskaramba and two others, cancellation thereafter, mortgage of the land by these persons to the Co-Operative Central Bank, the auction conducted by the Society, the fifth respondent becoming the highest bidder etc., are not denied. In fact, these events are averred in detail nay in the counter-affidavit filed by the MRO. However, the allegations of the petitioners that respondents 1 and 2 are taking necessary steps to evict the petitioners so as to deliver possession to the fifth respondent is denied. In paragraph 4 of the counter-affidavit, the MRO states that he has not taken the land from the petitioners and not delivered the same to the fifth respondent. It is also averred that there is a dispute between the fifth respondent (auction purchaser) and the seventh respondent-Society.

Respondents 5 and 7 filed separate counter-affidavits. In these counter-affidavits possession of the petitioners has not been specifically denied though other aspects regarding auction conducted by the Society are admitted.

A perusal of the affidavit contentions and the counter-affidavits would show that the writ petition is filed on a mere apprehension. Admittedly, the petitioners are not so far granted pattas and it is for the MRO to enquire into their claims and grant pattas to them. The writ petition is filed on an apprehension that respondents 1 and 2 might dispossess the petitioners and hand over the land to the fifth respondent, who is the highest bidder in the auction conducted by the seventh respondent. In view of the denial of the allegation that there is

a threat of dispossession, this Court holds that the writ petition is filed making false allegations not supported by any evidence.

The writ petition is therefore dismissed. No costs.

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(V.V.S.RAO, J)

22.11.2006
DR